

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
OXFORD DIVISION

JAMES ALLEN HUGHEY

PLAINTIFF

VERSUS

CIVIL ACTION NO.: 3:18-CV-0004-NBB-RP

TIPPAH COUNTY, MISSISSIPPI,
TOMMMY MASON, in His Individual Capacity,
and "X" Bonding Company

DEFENDANTS

**TOMMY MASON'S MOTION FOR JUDGMENT
ON THE PLEADINGS BASED ON QUALIFIED IMMUNITY**

Comes now, Defendant, Tommy Mason ("Deputy Mason"), by and through counsel, and pursuant to Rule 12(c) of the Federal Rules of Federal Procedure, submits his Motion for Judgment on the Pleadings Based on Qualified Immunity¹ as follows:

1. This matter arises out of Plaintiff's arrest by Tippah County deputies. *CM/ECF Doc. No. 1*. More specifically, Plaintiff asserts Deputy Mason violated his constitutional rights under the Fourth and Fourteenth Amendments of the United States Constitution, alleging excessive force. *Id.* However, Plaintiff has failed to sufficiently plead a factual basis for a claim of excessive force against Deputy Mason in his individual capacity. Accordingly, the claims against Deputy Mason should be dismissed.

¹ Deputy Mason re-urges and re-asserts his arguments made in his original Motion for Judgment on the Pleadings Based on Qualified Immunity (*CM/ECF Doc. No. 14*), his Memorandum in Support of his original Motion for Judgment on the Pleadings Based on Qualified Immunity (*CM/ECF Doc. No. 15*), and his Reply to Plaintiff's Response in Opposition to his Motion for Judgment on the Pleadings Based on Qualified Immunity (*CM/ECF Doc. No. 23*).

2. Plaintiff was arrested on June 6, 2017 following an incident vaguely acknowledged in the Plaintiff's Complaint. *Id.*

3. Pursuant to this Court's July 2, 2018 Order, the Plaintiff was granted the opportunity to file a *Schultea* Reply. *See CM/ECF Doc. No. 26.* However, the allegations made by the Plaintiff in his *Schultea* Reply were just as threadbare as those contained in his Complaint. *See CM/ECF Doc. No. 27.*

4. More specifically, at the most, the Plaintiff contends in his *Schultea* Reply that he did nothing but knock on a door, yet he was indicted for felony burglary and Deputy Mason beat him with his fists. *Id.*

5. Simply put, the Plaintiff has not alleged facts sufficient to overcome Deputy Mason's qualified immunity defense. Accordingly, the constitutional claims asserted by Plaintiff against Deputy Mason in his individual capacity should be dismissed.

WHEREFORE, PREMISES CONSIDERED, Defendant, Tommy Mason, respectfully requests that that this Court enter an Order dismissing the claims made against him in his individual capacity, with prejudice.

DATE: August 8, 2018.

Respectfully submitted,

TOMMY MASON

BY: /s/ Katelyn A. Riley
One of His Attorneys

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CERTIFICATE

I, the undersigned of Allen, Allen, Breeland & Allen, PLLC, hereby certify that on this day, I electronically filed the foregoing Motion for Judgement on the Pleadings Based on Qualified Immunity with the Clerk of the Court using the ECF system which gave notification of such filing to the following counsel of record:

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This the 8th day of August, 2018.

/s/ Katelyn A. Riley
OF COUNSEL